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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/685,247	10/14/2003	Gary T. Dane	SMI0077.US	3999

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Todd T. Taylor
TAYLOR & AUST, P.C.
142 S. Main St.
P.O. Box 560
Avilla, IN 46710

EXAMINER

CASTELLANO, STEPHEN J

ART UNIT	PAPER NUMBER
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3781

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/08/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/685,247

Applicant(s)

DANE ET AL.

Examiner

Stephen J. Castellano

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 February 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-20 is/are pending in the application.
- 4a) Of the above claim(s) 10-17 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 3-9 and 18-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

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Claim 2 has been canceled. Claims 1 and 3-20 are pending.

Applicant's election of claims 1-9, 18 and 19 in the reply filed on April 20, 2006 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Claims 10-17 stand withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim.

Election was made **without** traverse in the reply filed on April 20, 2006.

Claims 1, 3-9 and 18-20 have been treated according to their merits.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 5, 6 and 18-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Lai.

Lai discloses a sterilization case assembly comprising a plurality of cases (13, 132), second case 13 stacked upon a first case 132 in vertical direction, the front side of the assembly is toward the right of the Fig. 1 view, the second case is offset from the first case in the Fig. 1 view, each of the cases are movable between closed and open positions, when the top case 13 (second case) is closed by lid 10 and the second from top case 13 just below the top case 13 acts as a lid for and as part of the second case 132 and is in a closed position and the second case (lid 10 and top case 13) is offset from the first case (second from top case 13 and bottom case 132), the limitations of claims 1 and 18 are met. Lai discloses the general rectangular box shape and

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each sterilization case has a top wall formed by a lid and a bottom wall, the top and bottom walls are parallel to each other and generally horizontally oriented, the bottom wall of a second case directly contacting the top wall of a first case.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 and 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schafer.

Schafer discloses a sterilization case assembly comprising a plurality of cases (box units 10), second case (any case 10 stacked directly above a first case 10) stacked upon a first case (any case 10 stacked directly below a second case) in vertical direction, the front side of the assembly is toward the right of the Fig. 2 view, the second case is offset from the first case in the Fig. 1 view, each of the cases are movable between closed and open positions (by rear wall means 18 defined by a removable cover as stated at col. 2, lines 16-17). Schafer discloses the general box shape and each case having top and bottom walls, the bottom wall of a second case directly contacting the top wall of a first case. Although the top and bottom walls are generally horizontal, the top and bottom walls are not parallel or substantially parallel. Official notice is taken that substantially parallel and fully parallel top and bottom walls and rear and front walls of stacked bins are well known and more typical than top and bottom walls which are slightly skewed from parallel. It would have been obvious to modify the top and bottom walls of each case to be parallel, to modify the bottom wall of one case to be parallel with the top wall of

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another case, to modify the front and rear walls of each case to be parallel (claim 20) and to modify the rear walls of adjacent stacked cases to be parallel in order to modify the cubic space to be square or rectangular in shape to provide uniform and constant height, width and depth so that the interior can be filled with square and rectangular shaped items of the same shape with no loss of the interior volume.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schafer in view of Liu.

Schafer discloses the invention except for the drawers. Liu teaches a similar stackable case assembly with drawers. It would have been obvious to modify each of the cases (box units 10) of Schafer to have their rear walls defined by removable covers to be replaced with drawers as the access to the drawer from the top is easier and usually better lighted than the side access of the removable cover. Since a case could be defined by a plurality of box units, then one case (having a plurality of box units 10) includes a plurality of drawers.

Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schafer in view of Liu as applied to claims 3 and 1 above, and further in view of Holsinger.

The combination of Schafer and Liu discloses the invention except for the hinged front cover of claim 4 and the hinged lid of claim 5. Holsinger teaches a hinged front cover and a hinged lid. It would have been obvious to add the front cover and lid to add additional closing to the drawer structure and cases to add to the security of closure as drawers may inadvertently open and spill their contents.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schafer in view of Liu and Holsinger as applied to claim 5 above, and further in view of Trower.

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The combination discloses the invention except for the handle and recessed pocket.

Trower teaches a handle and recessed pocket interlocking means. It would have been obvious to add the handle and recessed pocket of Trower to provide secure fastening in the stacked position to prevent stacked articles from separating.


Claims 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schafer in view of Trower.

Schafer discloses the invention except for the handle and recessed pocket. Trower teaches a handle and recessed pocket interlocking means. It would have been obvious to add the handle and recessed pocket of Trower to provide secure fastening in the stacked position to prevent stacked articles from separating.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen J. Castellano whose telephone number is 571-272-4535. The examiner can normally be reached on increased flexibility plan (IFP).

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Stephen J. Castellano
Primary Examiner
Art Unit 3727

sjc